



NORTH CAROLINA COAL ASH MANAGEMENT COMMISSION



MICHAEL JACOBS, CHAIRMAN

NATALIE K. BIRDWELL, EXECUTIVE DIRECTOR

NORTH CAROLINA COAL ASH MANAGEMENT COMMISSION Minutes of November 14, 2014 Meeting Chapel Hill, North Carolina

The Coal Ash Management Commission met on November 14, 2014, at the Friday Center in Chapel Hill, North Carolina. This was the first meeting of the Coal Ash Management Commission. Chairman Jacobs called the meeting to order at 9:00 a.m.

ATTENDEES

The following Commissioners were present:

Michael Jacobs (Chairman)
Harrel Jamison Auten III
Herbert M. Eckerlin
Tim Bennett
Larry Cobb
Dr. D. Allen Hayes
Rajaram Janardhanam, Ph.D.
Lisa Diaz Riegel

The following Commissioners were absent:

None

Vacant seat:

There is currently one vacant seat. The appointment to fill the vacancy will be made by the President Pro Tempore of the Senate.

Commission counsel Lisa Schneider was also present.

WELCOME

Chairman Jacobs welcomed everyone to the Commission's first meeting and thanked the Commissioners for their willingness to serve. Each of the Commissioners gave a brief personal introduction, and then Chairman Jacobs read an Opening Statement describing the approach of the Commission in carrying out its responsibilities. For a copy of the Opening Statement, please see [Appendix A](#).



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ADMINISTRATIVE PRESENTATIONS

Staff members from the North Carolina Department of Public Safety (NCDPS) provided an overview of administrative, ethics, and communications issues related to the Commission and its members.

Will Polk, Special Counsel at NCDPS, provided an overview of open meetings laws, public records laws, and ethics requirements for public servants. Mr. Polk reminded the Commissioners that his presentation was just an overview, and that they would still be required to complete ethics training through the State Ethics Commission.

Kenneth Ashe, Interim Executive Director of the Coal Ash Management Commission, provided an update on office operations, including office locations and staffing, and presented information to the Commissioners regarding administrative items like per diems and reimbursements. Mr. Ashe also reported that the new Commission website was online and ready for viewing. It is available at www.camc.nc.gov. Chairman Jacobs thanked Mr. Ashe for his hard work in helping to get the Commission up and running while also maintaining his regular job at NCDPS.

Pamela Walker, Communications Director for NCDPS, spoke about the role of the NCDPS communications office. Ms. Walker explained that they serve as a liaison for media and public inquiries, as well as for public records requests. She explained the process for the media to request public records or make other inquiries, and also offered to serve as a liaison to assist Commission members with related inquiries.

OVERVIEW OF THE LEGISLATION

Lisa Schneider, Legal Counsel to the Coal Ash Management Commission, presented an overview of the Coal Ash Management Act (the "Act"), which is the legislation that created the Commission. Ms. Schneider covered the basic governance, creation and administration of the Commission. She reminded the Commission that although it is housed for administrative purposes within the Division of Emergency Management within NCDPS, it is, by law, an independent commission and not subject to control or oversight by that agency. Ms. Schneider reviewed the primary duties of the Commission to approve coal ash impoundment classifications and closure plans, timetables included within the Act, and studies required to be performed by the Commission.

DUKE ENERGY OVERVIEW OF COAL ASH MANAGEMENT

Richard Baker, the Director of Water and Natural Resources at Duke Energy, provided an overview of how coal ash has been managed in the past. He discussed modernization of Duke Energy's plants and provided an overview of the current inventory of coal ash basins.



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PRESENTATIONS BY DENR

Staff members from the North Carolina Department of Environment and Natural Resources (DENR) provided an overview of DENR's responsibilities and actions related to coal ash management in North Carolina. Mitch Gillespie, Assistant Secretary at DENR, introduced the staff members at DENR that are responsible for the regulation of coal ash. He expressed regards from Secretary Skvarla, who was unable to attend the meeting.

Tom Reeder, Director of the Division of Water Quality at DENR, spoke about the State and Federal roles in coal ash management, and where their respective authority comes from. He explained that one of the primary sources of authority stems from the National Pollutant Discharge Elimination System (NPDES) permitting program under the Clean Water Act. He explained that it is a Federal permitting program administered by the State, and that it applies to discharges into the waters of North Carolina. He also provided an overview of the organizational structure at DENR as it relates to coal ash.

SWEARING IN OF COMMISSIONERS

Chairman Jacobs welcomed North Carolina Supreme Court Justice Paul Newby to the meeting, and thanked him for conducting the swearing in ceremony. Justice Newby spoke about the background and meaning of the oath of office, and then administered the oath of office to all Commissioners in attendance.

PRESENTATIONS BY DENR (CONTINUED)

Linda Culpepper, Director of the Division of Waste Management at DENR, explained some of the technical terms contained in the Coal Ash Management Act, and provided an overview of the currently permitted landfills in North Carolina.

Toby Vinson, Chief of DEMLR Land Quality Section at DENR, provided an overview of the Division and Section and its programs, including stormwater, dam safety, sedimentation control and state mining control. He explained that in addition to the NPDES permits issued under the Division of Water Quality, NPDES permits might also be required under the stormwater program. Mr. Vinson pointed out that Mr. Tracy Davis, the Division director, will be the primary point of contact for the Division, but that he was unable to attend the meeting.

STATE ETHICS ACT COMPLIANCE

As the Commissioners were now officially sworn in, Chairman Jacobs, pursuant to the State Ethics Act, reminded the Commissioners that they are required to avoid conflicts of interest, and asked whether, in looking at the agenda, they saw any conflicts or potential conflicts of interest. None of the Commissioners noted any conflicts or potential conflicts of interest.



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PRESENTATIONS BY DENR (CONTINUED)

Steve McEvoy, Dam Safety Engineer at DENR, spoke about dam safety and risks at coal ash impoundments, and presented various potential failure modes. He also addressed the required rates of dewatering to help protect against certain types of dam failures.

Jay Zimmerman, Section Chief for Water Quality Regional Operations at DENR, presented on risks to groundwater near the impoundment sites, and gave an overview of groundwater monitoring and compliance activities. His presentation included the results of previous monitoring activities and the pollutants that were found in areas nearby impoundments. He explained that it was not easy to determine whether the pollutants were associated with coal ash or were naturally occurring. Mr. Zimmerman's discussion included a description of how groundwater flows, the impact of the water table, and the impact of the geology in the area.

Mr. Zimmerman reported that Duke Energy, as required by Executive Order 62 and the Act, submitted a drinking water supply well survey on October 1, 2014. He explained that the survey identified all receptors within a ½ mile radius of the compliance boundary of each facility, and that DENR was in the process of reviewing the survey and determining which wells will need to be sampled. Mr. Zimmerman also reported that, as required by Executive Order 62 and the Act, Duke had submitted groundwater assessment plans to DENR on September 26, 2014. He stated that DENR sent letters to Duke requesting further information on November 4, 2014, and had requested a response within 30 days.

Jeff Poupart, Section Chief for the Division of Water Resources, Water Quality Permitting, gave a presentation on surface water discharges related to coal ash impoundments. He presented examples of the different types of unauthorized discharges, including seeps and weeps. He also provided an overview of the state and federal rules governing permitting for discharges to waters of the State or waters of the United States. Mr. Poupart reported that, pursuant to the Act, Duke submitted a report identifying new discharges to DENR on October 1, and that such report was currently under review by DENR. He further reported that DENR had received permit renewal or modification applications from Duke for all 14 sites to include the unpermitted discharges.

DUKE ENERGY OVERVIEW OF DISPOSAL OPTIONS

Richard Baker, the Director of Water and Natural Resources at Duke Energy, provided an overview of various disposal options available, including beneficial re-use. He explained that the options include consolidating the ash at a site to a smaller footprint and putting in place a cap to cut off the source of water; excavating the ash and relocating to a structural fill location or a fully-lined landfill, either onsite or offsite; and constructing a landfill within the footprint of an existing ash basin. He explained that site-specific engineering should guide closure plan decisions.

For a complete copy of all of the presentations made at this meeting, please see [Appendix B](#).

The next meeting is scheduled for January 14, 2015 at the McKimmon Center at North Carolina State University in Raleigh. There being no further business before the Commission, the meeting adjourned at 3:20 p.m.